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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,540	12/08/2003	Ciprian Agapi	N0484.70569US00	1500

23628 7590 11/09/2009

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EXAMINER	
WOZNIAK, JAMES S	

ART UNIT	PAPER NUMBER
2626	

MAIL DATE	DELIVERY MODE
11/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/730,540	AGAPI ET AL.	
	Examiner	Art Unit	
	JAMES S. WOZNIAK	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 June 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *08 December 2003* is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. In response to the office action from 3/31/2009, the applicant has submitted an amendment, filed 6/30/2009, amending independent claims 1 and 11, while canceling claims 21-29 and arguing to traverse the art rejection based on the limitation regarding a recordation plan to assist a speaker in recording planned audio segments comprising a file that stores the text indicating the content of the planned audio segments and the corresponding file names of files to store actual audio segments generated by recording a speaker speaking the content of the respective planned audio segments. *(Amendment, Pages 11-12)*. Applicant's arguments have been fully considered, however the previous rejection is maintained due to the reasons listed below in the response to arguments.

2. In response to the cancellation of claims 21-29, the examiner has withdrawn the previous objection directed towards minor informalities.

3. In response to the previous 35 U.S.C. 101 rejection, the applicants have amended claim 1 and its associated dependent claims to be directed to a hardware-based computer system *(Amendment, Page 8)*, thus changing the statutory class to an apparatus, which is not a software-only embodiment. As such the previous 35 U.S.C. 101 rejection has been withdrawn. Such amendments, however, have raised 35 U.S.C. 112 issues which have been set forth below.

4. The applicants have amended claims 1 and 11 to clarify that the extracted text and prompt file names are directed to audio files *intended* to be created when voice professional speaks/records the recording plan *(Amendment, Pages 8-9)*. Such an amendment now makes it clear that the audio files are not already recorded as was previously recited, resulting in the issue of indefiniteness. Accordingly, the previous corresponding 35 U.S.C. 112, second paragraph rejection has been withdrawn.

5. In response to the cancellation of claims 21-29, the examiner has withdrawn the previous corresponding 35 U.S.C. 112, second paragraph rejection.

Response to Arguments

6. Applicant's arguments have been fully considered but they are not persuasive for the following reasons:

With respect to independent claim 1, the applicants first argue that Busayapongchai et al *(U.S. PG Publication: 2004/0254792)* does not describe creating a recordation plan to assist a speaker in recording the planned audio segments, the recordation plan comprising a file that stores, in association, the text indicating the content of the planned audio segments and the corresponding file names of files to store actual audio segments recorded by the speaker uttering the content of the respective planned audio segments (Amendment, Page 11). In support of this argument, the applicants allege that in Busayapongchai, the only time that audio segments are

recorded are under certain circumstances and even in these instances Busayapongchai is silent on how a manual process is performed, specifically with regards to the applicants' claimed recordation plan *(Amendment, Page 11)*. Thus, the applicants argue that Busayapongchai fails to teach their claimed invention.

In response, the examiner notes that Busayapongchai does anticipate a recording plan as is set forth in the presently claimed invention. Specifically, Busayapongchai teaches that first, a VoiceXML script file is input and parsed by a parser to extract text that is to be rendered in spoken form in an interactive voice application or IVR system *(Paragraph 0029-0031; and parser, Fig. 1, Element 120)*.. The extracted information also includes text-based naming descriptors or voice information *(Paragraphs 0030 and 0036-37)* used to make up or populate a file name of a to-be-recorded spoken version of the text *(Paragraphs 0036-0039)*. This naming function, based on the file names extracted from the VoiceXML script, is an automated process which is performed by a component known as the "recording manager" *(Fig. 1, Element 130; and recording manager file naming of a file recorded by a voice professional, Paragraphs 0036-39)*. In the instance of voice file creation for a newly entered VoiceXML text, Busayapongchai's invention directly provides the voice recording professional with the extracted information, which as noted above comprises the text to be spoken and the file name descriptors *(see coupling between the parser and the recording manager step/component which occurs prior to completed audio file storage in a database 140, Fig. 1, Elements 130 and 140; Paragraph 0031, which details that the properties for recording are passed out of the parser; and Paragraph 0039, which notes that the information needed to create the audio file is provided to a recording professional for recording and afterwards the file stored)*. Thus, from at least the above

teachings in Busayapongchai, it can be seen that the recording artist is provided with information output from the parser, which comprises text to be read and file name descriptors and these teachings anticipate the claim limitations argued by the applicants. As such, the applicants' arguments have been fully considered, but are not convincing.

Also, the extraction of text segments and associated filenames from a markup language document to create a list is not unknown in the art. For example see Johnson et al *(U.S. Patent: 7,159,174)*, which teaches such processing (Abstract). This reference and other pertinent references have been included in the attached PTO-892 for the applicants' consideration.

The applicants traverse independent claim 11 and the further dependent claims for the same reasons as claim 1 *(Amendment, Page 12)*. In regards to such arguments, see the response directed towards claim 1.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. **Claims 11-20** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 11 and its associated dependent claims 12-20 is directed to a computer readable storage medium storing processor executable instructions that is not limited to a tangible, and thus, statutory medium. The scope of "computer-readable medium" as defined in the specification includes volatile signal-based mediums *(see Specification, Page 0045)*. A signal

does not fall within one of the four statutory categories of invention *(i.e., process, machine, manufacture, or composition of matter)* because it is an ephemeral, transient signal and thus is non-statutory. Since the scope of "computer-readable storage medium" includes these non-statutory instances, claim 11 and its associated dependent claims are directed to non-statutory subject matter. It is also noted that this rejection was raised earlier in prosecution and was previously overcome by amending the claim to recite a "non volatile" medium *(see Amendment from 11/30/2007)*, which the applicants have removed in the present amendment, necessitating this 35 U.S.C. 101 rejection.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. **Claims 11-20** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The scope of claim 11 includes "at least one computer readable storage medium" or a scope of multiple computer readable mediums storing a program. The specification teaches a single computer readable medium (i.e., "*a*... medium", Specification, Paragraph 0010), but not

multiple mediums storing one program. Thus, claim 11 and associated dependent claims 12-20 fail to comply with the written description requirement.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. **Claims 1-10** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. In claim 1, the omitted elements are: a computer readable memory storing the program defined in claim 1 for execution by the computer. The computer cannot actively perform the recited method unless some type of program in storage is read. In the present claim, it is also unclear if the computer actually performs its associated steps since it is only "programmed" to do so. In order to overcome this rejection, an amendment directed to reciting a memory storing a program that is read and executed by the computer to actively perform the recited program steps is recommended. Dependent claims 2-10 fail to overcome the preceding rejection, and thus, are also rejected for being indefinite by virtue of their dependency.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

14. **Claims 1, 4-7, 10-11, 14-17, and 20** are rejected under 35 U.S.C. 102(e) as being anticipated by Busayapongchai et al *(U.S. PG Publication: 2004/0254792)*.

With respect to **Claim 1**, Busayapongchai discloses:

At least one computer programmed to implement *(computer program implementation that is executed by a personal computer, Paragraph 0023)*:

identifying text in the speech application program, the text indicating content of planned audio segments that are intended to be recorded and identifying associated file names for files storing actual audio segments after the respective planned audio segments have been recorded *(identifying audio text in a VoiceXML script, referencing recordable text and associated file naming descriptors, Paragraphs 0028-0031; and recorded file naming, Paragraphs 0036-0039)*;

Extracting the text and the associated filenames from the speech application program *(parser extracting text strings and file naming descriptors from VoiceXML scripts, Paragraphs 0029-0031)*; and

Creating a recordation plan to assist a speaker in recording the planned audio segments, the recordation plan comprising a file that stores, in association, each identified text indicating the content of the planned audio segments and the corresponding file names for files to store actual audio segments recorded by the speaker uttering the content of the respective planned audio segments *(recording manager that passes extracted text strings to a voice talent for manual recording, wherein the information includes file name information Paragraphs 0031 and 0036-0039)*.

With respect to **Claim 4**, Busayapongchai further discloses the creation of a new filename which includes newly and previously created audio data *(Paragraphs 0036-0039)*.

With respect to **Claim 5**, Busayapongchai discloses the population of the new filename into the VoiceXML script *(Paragraph 0036)*.

With respect to **Claim 6**, Busayapongchai further recites:

Determining if a given extracted text audio segment contains more than one sentence (determining VoiceXML script comprising multiple sentences through parsing processing *Paragraphs 0002-0003; and 0029-0031)*; and

Separating the given extracted text into two or more separate text segments such that each of the two or more separate text segments includes no more than one sentence segments to obtain audio segments containing only one sentence of audio text, if the given extracted audio segments contain segments contain more than one sentence of audio-text *(parsing (i.e., dividing), the VoiceXML script into separate portions or sentences, Paragraphs 0029-0031)*.

With respect to **Claim 7**, Busayapongchai further discloses:

Processing the extracted audio segments further includes sorting the extracted audio segments *(ordering text sequences for recording, Paragraph 0032)*.

With respect to **Claim 10**, Busayapongchai discloses the VoiceXML script as applied to Claim 1.

With respect to **Claim 11**, Busayapongchai discloses the method performed by the computer system, as applied to claim 1, implemented as a program stored on a computer readable medium *(Paragraphs 0023-0026)*.

Claims 14-17 contain subject matter respectively similar to Claims 4-7, and thus, are rejected under similar rationale.

Claim 20 contains subject matter similar to Claim 10, and thus, is rejected under similar rationale.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

16. **Claims 2-3 and 12-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Busayapongchai et al in view of Ladd et al *(U.S. Patent: 6,269,336)*.

With respect to **Claim 2**, Busayapongchai discloses the computer system for extracting and producing audio text for recording as applied to Claim 1. Busayapongchai does not

specifically suggest identifying text associated with a pause, creating a silence file associated with the identified pause, and modifying an audio file referenced by the text containing the pause information. Ladd, however, recites the ability to process a "break" element in VoiceXML script to divide audio text scripts, insert a predefined length of audio silence, and divide audio prompts *(Col. 29, Line 58- Col. 30, Line 26)*.

Busayapongchai and Ladd are analogous art because they are from a similar field of endeavor in VoiceXML processing systems. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Busayapongchai with the break element taught by Ladd in order to configure and add natural speaking characteristics to a VoiceXML page *(Ladd, Col. 16, Lines 11-20)*.

With respect to **Claim 3**, Ladd further discloses:

Determining if the pause is indicated as being inserted within a planned audio segment *(identifying a break element, Col. 29, Line 58- Col. 30, Line 26)*; and

Separating the text into separate text segments separated by the pause if the pause is indicated as being inserted within the planned audio segment *(break element is inserted between two segments of audio text, Col. 29, Line 58- Col. 30, Line 26)*.

Claims 12-13 contain subject matter respectively similar to Claims 2-3, and thus, are rejected under similar rationale.

17. **Claims 8 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Busayapongchai et al in view of Wen et al *(U.S. Patent: 6,341,959)*.

With respect to **Claim 8**, Busayapongchai discloses the method for extracting and producing audio text for recording as applied to Claim 1. Busayapongchai also recites VoiceXML script comprising multiple sentences *(Paragraphs 0002-0003; and 0029)*. Busayapongchai does not specifically suggest modifying multiple text segments to obtain only a single text segment, while deleting the other segment, if extracted audio segments contain more than one sentence, however, Wen recites the ability to detect and delete a repeated sentence, thus obtaining a single instance of that sentence *(Col. 3, Lines 64-65)*.

Busayapongchai and Wen are analogous art because they are from a similar field of endeavor in language user interfaces. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Busayapongchai with the repeated sentence detection means taught by Wen in order to save storage space in the VoiceXML system taught by Busayapongchai *(Wen, Col. 3, Lines 64-65)*.

Claim 18 contains subject matter respectively similar to Claim 8, and thus, are rejected under similar rationale.

18. **Claims 9 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Busayapongchai et al in view of Ladd et al, and further in view of Heinze et al *(U.S. Patent: 6,915,254)*.

With respect to **Claim 9**, Busayapongchai in view of Ladd discloses the method for extracting and producing audio text as applied to Claim 1. Ladd teaches:

Identifying text indicating a variable in the extracted audio segments *("option" element in VoiceXML that defines multiple variable prompts, Col. 27, Line 53- Col. 29, Line 35)*;

Determining if the variable has an associated text file containing variable values *("option" element contains multiple segments of audio text, Col. 29, Lines 5-35)*;

Creating a variable audio segment for each said variable value, if the variable has an associated text file *(audio prompt that is provided for each variable instance in the "option" element, Col. 29, Lines 5-35)*; and

Modifying the audio segment containing the text indicating the variable *("option" element is divided using separate script tags for each variable, Col. 29, Lines 5-35)*.

Ladd further recites that the variables within the option elements are nouns or open class words *(Col. 29, Lines 5-35)*. Ladd provides the benefit of configuring and adding natural speaking characteristics to a VoiceXML page *(Ladd, Col. 16, Lines 11-20)*. Busayapongchai in view of Ladd does not specifically teach performing text parsing by dividing text at a closed class word, wherein a first audio text ends with a non-closed class word preceding the variable. Such a parsing principle, however, is well known in text processing, as is evidenced by Heinze. Heinze discloses breaking text at closed class words *(i.e., articles, prepositions, pronouns, etc.) (Col. 11, Lines 45-47; and Col. 19, Line 64- Col. 20, Line 12)*. Thus, in the case of Heinze, the word preceding the closed-class word and ending the first segment would be non-closed class and would precede the variable, which are nouns *(i.e., open class words)* in the case of Ladd.

Busayapongchai, Ladd, and Heinze are analogous art because they are from a similar field of endeavor in text file processing systems. Thus, it would have been obvious to a person of ordinary skill in the art, at the time of invention, to modify the teachings of Busayapongchai in view of Ladd with the parsing scheme taught by Heinze in order to provide natural language structure understanding in a script *(Heinze, Col. 4, Lines 33-37)*.

Claim 19 contains subject matter similar to Claim 9, and thus, is rejected under similar rationale.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: See PTO-892.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Wozniak whose telephone number is (571) 272-7632. The examiner can normally be reached on M-Th, 7:30-5:00, F, 7:30-4, Off Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached at (571) 272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/James S. Wozniak/
Primary Examiner, Art Unit 2626